IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re the Patent Application of:	)	
	)	
Gebert	)	
	)	
Serial No.: 09/782,850	)	Art Unit: 2178
	)	
Filed: February 14, 2001	)	
	)	Examiner: Campbell, Joshua D.
For: Method, System, and Program for Pre-Processing a Document to Render on an Output Device	)	

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF
IN SUPPORT OF APPELLANT'S APPEAL
TO THE BOARD OF PATENT APPEALS AND INTERFERENCES

Sir:

Applicant (hereinafter "Appellant") hereby submits this Brief in support of its appeal from a final decision by the Examiner, mailed January 21, 2009 in the above-captioned case. Appellant respectfully requests consideration of this appeal by the Board of Patent Appeals and Interferences (hereinafter "Board") for allowance of the above-captioned patent application.

An oral hearing is not desired.

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I. REAL PARTY IN INTEREST

The invention is assigned to InfoPrint Solutions Company LLC of Boulder, Colorado, 80301.

II. RELATED APPEALS AND INTERFERENCES

To the best of Appellant's knowledge, there are no appeals or interferences related to the present appeal that will directly affect, be directly affected by, or have a bearing on the Board's decision.

III. STATUS OF CLAIMS

Claims 1-48 have been cancelled. No claims have been allowed. Claims 49-87 are currently pending in the above-referenced application. No claims have been allowed. All pending claims were rejected in the Final Office Action mailed January 21, 2009, and are the subject of this appeal.

IV. STATUS OF AMENDMENTS

In response to the Final Office Action, mailed on January 21, 2009, rejecting claims 49-87, Appellant timely filed a Notice of Appeal on April 21, 2009.

A copy of all claims on appeal is attached hereto as Appendix of Claims.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Claim 49 discloses a method for processing a source document in a structured document format including elements providing source content to render having code that is rasterized into output **(See Specification at page 10, ll. 10-14)**. The method includes receiving the source document including source content in a presentation language **(See FIG. 3 (block 100) and Specification at page 10, ll. 10-14)**, receiving a layout data structure separate from the source document, providing formatting properties specifying a layout and format of the content output, wherein the layout data structure does not include source content **(See FIG. 3 (block 102) and Specification at page 10, ll. 12-13)**, processing the source document and the layout data structure to determine formatting properties, including page divisions, for the content in the source document **(See FIG. 3 (block 102) and Specification at page 10, ll. 12-17)**, generating a first page object including the source content in the presentation language used in the source document and formatting properties for only a first page, generating a second page object including the source content in the presentation language used in the source document and formatting properties for only a second page **(See FIG. 3 (block 106) and Specification at page 10, ll. 17-19)** wherein the first page object includes a first set of content elements to place on the first page and the second page object includes a second set of content elements to place on the second page **(See FIG. 3 (blocks 110-130) and Specification at page 10, ll. 23 – page 8, ll. 6)** and transmitting the first page object and second page object to a rasterizer to transform into renderable information capable of being generated by an output device **(See FIG. 1 (block 8))**.

Claim 62 discloses a system for processing a source document in a structured document format including elements providing source content to render having code that is rasterized into output **(See Specification at page 10, ll. 10-14)**, including an output device **(See FIG. 1 (block 8)**, means for receiving the source document including source content in a presentation language **(See FIG. 3 (block 100) and Specification at page 10, ll. 10-14)**, means for receiving a layout data structure separate from the source document, providing formatting properties specifying a layout and format of the content output, wherein the layout data structure does not include source content **(See FIG. 3 (block 102) and Specification at page 10, ll. 12-13)**, means for processing the source document and the layout data structure to determine formatting properties, including page divisions, for the content in the source document **(See FIG. 3 (block 102) and Specification at page 10, ll. 12-17)**, means for generating a first page object including the source content in the presentation language used in the source document and formatting properties for only a first page, means for generating a second page object including the source content in the presentation language used in the source document and formatting properties for only a second page **(See FIG. 3 (block 106) and Specification at page 10, ll. 17-19)**, wherein the first page object includes a first set of content elements to place on the first page and the second page object includes a second set of content elements to place on the second page **(See FIG. 3 (blocks 110-130) and Specification at Page 10, ll. 23 – Page 8, ll. 6)** and means for transmitting the first page object and second page object to a rasterizer to transform into renderable information capable of being generated by the output device **(See FIG. 1 (block 8))**.

Claim 75 discloses an article of manufacture, in communication with an output device, comprising a computer-readable non-volatile storage unit for processing a source document in a structured document format including elements providing source content including code that is rasterized into output to render, wherein the source content **(See Specification at page 10, ll. 10-14)**. The article of manufacture comprises code is capable of causing a processor to perform receiving the source document including source content in a presentation language **(See FIG. 3 (block 100) and Specification at page 10, ll. 10-14)**, receiving a layout data structure separate from the source document, providing formatting properties specifying a layout and format of the content output, wherein the layout data structure does not include source content **(See FIG. 3 (block 102) and Specification at page 10, ll. 12-13)**, processing the source document and the layout data structure to determine formatting properties, including page divisions, for the content in the source document **(See FIG. 3 (block 102) and Specification at page 10, ll. 12-17)**, generating a first page object including the source content in the presentation language used in the source document and formatting properties for only a first page, generating a second page object including the source content in the presentation language used in the source document and formatting properties for only a second page **(See FIG. 3 (block 106) and Specification at page 10, ll. 17-19)** wherein the first page object includes a first set of content elements to place on the first page and the second page object includes a second set of content elements to place on the second page **(See FIG. 3 (blocks 110-130) and Specification at page 10, line 23 – Page 8, ll. 6)** and transmitting the first page object and second page object to a rasterizer to transform into renderable information capable of being generated by an output device **(See FIG. 1 (block 8))**.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Claims 49-87 stand rejected on the grounds of Res Judicata based on a prior adjudication against the inventor on patentably non-distinct claims involving the same issues.

B. Claims 49-56, 60-69, 73-81 and 85-87 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Adler et al., "Extensible Stylesheet Language (XSL)" Version 1.0, 10/18/00, ("*Adler*") in view of Saito et al., U.S. Patent No. 5,323,312 ("*Saito*").

The remaining prior art rejections will not be discussed herein since patentability of those claims are dependent on arguments to be discussed below with regard to rejection B.

VII. ARGUMENT

1. THE PENDING CLAIMS 49-87 WERE IMPROPERLY REJECTED UNDER RES JUDICATA BECAUSE THE CLAIMS ARE PATENTABLY DISTINCT FORM PREVIOUSLY ADJUDICATED CLAIMS

In an Appellate Decision ("Decision") by the Board of Patent Appeals and Interferences ("Board") decided January 23, 2008, the Board upheld the Examiner's rejection of independent claims 1, 15 and 29. Particularly, the Board ruled that the claim language *each page object includes source content in a presentation language used in a source document and determined formatting properties for one page* "broadly encompasses a page object with source content in the presentation language used in the source document and the determined formatting properties consisting of one or more pages." See Decision at Page 9, lines 5-8.

Current independent claims 49, 62 and 75 each recite *a first page object including source content in a presentation language used in a source document and formatting properties for only a first page, and a second page object including the source content in the presentation language used in the source document and formatting properties for only a second page*. Thus, the present claims explicitly limit a *first page object* ***applying only*** *to a first page* and a *second page object* ***applying only*** *to a second page* in order to differentiate from the Board's construction in the Decision of "page objects" not being limited to a *single page*.

In an Advisory Action mailed March 24, 2009, the Examiner further asserts that the rejection of the claims should be maintained because:

> the phrase "one or more" provides the limitation of having at least one of the specific

> criteria and does not require the existence of any more than that one, thus having "only one" would fall into the definition of the phrase "one or more.

See Advisory Action at Page 2.

Notwithstanding the Examiner's definition, applicant respectfully submits that the Examiner has misconstrued the Board's rejection. The Board broadly construed the claimed page objects as **not being limited** to a single page, but more than a single page. See Decision at Page 9, lines 1-4. Thus, the Board held that *Adler* disclosed the disputed limitation since Appellant's previous claim language could be construed as the page objects being ***applied for more than one page***. As discussed above, the current claims clearly limit applying a page object to a single page. Accordingly, the limitations of the independent claims have not been adjudicated.

2. THE PENDING CLAIMS 49-87 WERE IMPROPERLY REJECTED UNDER 35 U.S.C. § 103(A) BECAUSE THE COMBINATION OF *ADLER* AND *SAITO* DOES NOT DISCLOSE OR SUGGEST EACH AND EVERY FEATURE OF THE PENDING CLAIMS

Appellant respectfully submits that the embodiments disclosed in *Adler* and *Saito* when combined fail to disclose or suggest the claimed invention for the reasons set forth below. As the Honorable Board is well aware, in order to establish a *prima facie* case of obviousness, the Office personnel must articulate the following:

> (1) a finding that the prior art included ***each element claimed***, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference;
>
> (2) a finding that one of ordinary skill in the art could have combined the elements as claimed by known methods, and that in combination, each element merely performs the same function as it does separately;
>
> (3) a finding that one of ordinary skill in the art would have recognized that the results of the combination were predictable; and
>
> (4) whatever additional findings based on the *Graham* factual inquiries may be necessary, in view of the facts of the case under consideration, to explain a conclusion of obviousness. (emphasis added)

Manual of Patent Examining Procedure (MPEP), 8th Edition, Revision 6, September 2007, §2143 (A).

(A) Claims 49-87 were improperly rejected because the combination of *Adler* and *Saito* does not disclose or suggest a first page object including source content in a presentation language used in a source document and formatting properties for only a first page, and a second page object including the source content in the presentation language used in the source document and formatting properties for only a second page.

The claims of the present application each recite an element that is not disclosed in either *Adler* or *Saito*. For example, Appellant's independent claim 49 recites the following:

> A method comprising for processing a source document in a structured document format including elements providing source content to render, wherein the source content comprises code that is rasterized into output, comprising:
>
> receiving the source document including source content in a presentation language;
>
> receiving a layout data structure separate from the source document, providing formatting properties specifying a layout and format of the content output, wherein the layout data structure does not include source content;
>
> processing the source document and the layout data structure to determine formatting properties, including page divisions, for the content in the source document;
>
> generating a first page object including the source content in the presentation language used in the source document and formatting properties for only a first page;
>
> generating a second page object including the source content in the presentation language used in the source document and formatting properties for only a second page, wherein the first page object includes a first set of content elements to place on the first page and the second page object includes a second set of content elements to place on the second page; and
>
> transmitting the first page object and second page object to a rasterizer to transform into renderable information capable of being generated by an output device.

Appellant's independent claim 62 recites:

> A system for processing a source document in a structured document format including elements providing source content to render, wherein the source content comprises code that is rasterized into output, comprising:

an output device;

means for receiving the source document including source content in a presentation language;

means for receiving a layout data structure separate from the source document, providing formatting properties specifying a layout and format of the content output, wherein the layout data structure does not include source content;

means for processing the source document and the layout data structure to determine formatting properties, including page divisions, for the content in the source document;

means for generating a first page object including the source content in the presentation language used in the source document and formatting properties for only a first page;

means for generating a second page object including the source content in the presentation language used in the source document and formatting properties for only a second page, wherein the first page object includes a first set of content elements to place on the first page and the second page object includes a second set of content elements to place on the second page; and

means for transmitting the first page object and second page object to a rasterizer to transform into renderable information capable of being generated by the output device.

Appellant's independent claim 75 recites:

A system comprising means for:

An article of manufacture, in communication with an output device, comprising a computer-readable non-volatile storage unit for processing a source document in a structured document format including elements providing source content to render, wherein the source content comprises code that is rasterized into output, and wherein the article of manufacture comprises code capable of causing a processor to perform:

receiving the source document including source content in a presentation language;

receiving a layout data structure separate from the source document, providing formatting properties specifying a layout and format of the content output, wherein the layout data structure

does not include source content;

processing the source document and the layout data structure to determine formatting properties, including page divisions, for the content in the source document;

generating a first page object including the source content in the presentation language used in the source document and formatting properties for only a first page;

generating a second page object including the source content in the presentation language used in the source document and formatting properties for only a second page, wherein the first page object includes a first set of content elements to place on the first page and the second page object includes a second set of content elements to place on the second page; and

transmitting the first page object and second page object to a rasterizer to transform into renderable information capable of being generated by an output device.

Adler discloses a set of formatting objects in XSL to describe both a layout structure of a page or "frame" (how big is the body; are there multiple columns; are there headers, footers, or sidebars; how big are these) and the rules by which the XML source content is placed into these "containers". The layout structure is defined in terms of one or more instances of a "simple-page-master" formatting object. This formatting object allows one to define independently filled regions for the body (with multiple columns), a header, a footer, and sidebars on a page. These simple-page-masters can be used in page sequences that specify in which order the various simple-page-masters shall be used. The page sequence also specifies how styled content is to fill those pages. This model allows one to specify a sequence of simple-page-masters for a book chapter where the page instances are automatically generated by the formatter or an explicit sequence of pages such as used in a magazine layout. Styled content is assigned to the various regions on a

page by associating the name of the region with names attached to styled content in the result tree. In addition to these layout formatting objects and properties, there are properties designed to provide the level of control over formatting that is typical of paginated documents. This includes control over hyphenation, and expanding the control over text that is kept with other text in the same line, column, or on the same page. See *Adler* at Section 1.2.3.

Saito discloses a mechanism that provides a document layout processing for efficiency of layout processing of a layout structure corresponding to a particular document. See *Saito* at paragraph 4, ll. 46-52.

Appellant submits that neither *Adler* nor *Saito* disclose or suggest a ***first page object including formatting properties for only a first page*** *and a* ***second page object including formatting properties for only a second page***. Particularly, *Adler* does not disclose or suggest such a feature. The Examiner maintains that *Adler* discloses:

> This result tree consists of formatting objects which correspond to typographic abstractions such as pages, also known as "page objects," if the document being processed consisted of more than one page of data that result tree would be required to have multiple page objects." These objects are stand alone abstractions which contain both the formatting ant the content necessary for each typographic abstraction, once again in this case that would be only one page.

See Advisory Action at Page 2.

Appellant respectfully disagrees. Appellant's claims recite each page object having content in a presentation language in the source document and formatting properties for one page. The results tree disclosed in *Adler* includes one tree having

formatting objects, where certain formatting object classes may provide typographic abstractions. See *Adler* at page 17 & 18. However, nowhere in *Adler* is there a disclosure, or reasonable suggestion, of each object including source content in a presentation language in the source document and formatting properties for one page.

Since neither *Adler* nor *Saito* disclose or suggest a first page object including source content in a presentation language used in a source document and formatting properties for only a first page, and a second page object including the source content in the presentation language used in the source document and formatting properties for only a second page, any combination of the references would necessarily fail to disclose or suggest such a feature.

Claims 50-61, 63-74, and 76-84 depend from independent claims 49, 62 and 75, respectively. Given that dependent claims necessarily include the limitations of the claims from which they depend, Appellant submits that the invention as claimed in claims 50-61, 63-74, and 76-84 are similarly patentable over a combination of *Adler* and *Saito*.

For the forgoing reasons, Appellant submits that the Examiner has failed to search and find a printed publication or patent that discloses the claimed invention as set forth in MPEP § 706.02(a).

Thus, the Examiner erred in rejecting claims 49-84 under 35 U.S.C. §103(a).

VIII. CONCLUSION

Appellant respectfully submits that all the appealed claims in this application are patentable and request that the Board of Patent Appeals and Interferences overrule the Examiner and direct allowance of the rejected claims.

Please charge the $540.00 to cover the appeal fee for one other than a small entity as specified in 37 C.F.R. § 1.17(c) and any shortages and credit any overpayment to Deposit Account No. 50-3669.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

Date: 5/27/09

Mark L. Watson
Attorney for Appellant
Reg. No. 46,322

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030
(303) 740-1980

IX. CLAIMS APPENDIX

49. A method for processing a source document in a structured document format including elements providing source content to render, wherein the source content comprises code that is rasterized into output, comprising:

receiving the source document including source content in a presentation language; receiving a layout data structure separate from the source document, providing formatting properties specifying a layout and format of the content output, wherein the layout data structure does not include source content;

processing the source document and the layout data structure to determine formatting properties, including page divisions, for the content in the source document;

generating a first page object including the source content in the presentation language used in the source document and formatting properties for only a first page;

generating a second page object including the source content in the presentation language used in the source document and formatting properties for only a second page, wherein the first page object includes a first set of content elements to place on the first page and the second page object includes a second set of content elements to place on the second page; and

transmitting the first page object and second page object to a rasterizer to transform into renderable information capable of being generated by an output device.

50. The method of claim 49, wherein the page objects include content and formatting properties in a device independent presentation language.

51. The method of claim 49, wherein the presentation language comprises a page description language.

52. The method of claim 49, wherein the source document does not indicate page divisions for the content.

53. The method of claim 49, wherein generating page objects comprises:

adding at least one content element to one page object until the page object does not have available space for an additional content element; and

adding at least one additional content element to at least one additional page object until all content elements are included in page objects.

54. The method of claim 53, wherein page sequence elements include content elements, further comprising:

accessing page sequence elements according to an ordering of the page sequence elements, wherein the content elements within the accessed page sequence elements are added to page objects.

55. The method of claim 49, wherein the presentation language comprises a first presentation language, further comprising:

transforming the source document and source content therein into a result document in a second presentation language, wherein the result document includes the source content and the formatting properties provided by the layout data structure, wherein the formatting properties

indicate page divisions of the content, and wherein the multiple page objects are generated from the result document.

56. The method of claim 55, wherein the first presentation language comprises the Extensible Markup Language (XML), wherein the second presentation language comprises Extensible Stylesheet Language Formatting Objects (XSL-FO), and wherein the page layout data structure comprises an XSL stylesheet.

57. The method of claim 55, wherein the page objects include formatting properties in a third presentation language.

58. The method of claim 57, wherein the first presentation language comprises the Extensible Markup Language (XML), wherein the second presentation language comprises Extensible Stylesheet Language Formatting Objects (XSL-FO), wherein the third presentation language comprises the Mixed Object Document Content Architecture (MO:DCA), and wherein the layout data structure comprises an XSL stylesheet.

59. The method of claim 57, wherein the third presentation language comprises a page description language.

60. The method of claim 55, wherein the page objects include content and formatting properties in the second presentation language.

61. The method of claim 55, wherein the second presentation language comprises Extensible Stylesheet Language Formatting Objects (XSL-FO).

62. A system for processing a source document in a structured document format including elements providing source content to render, wherein the source content comprises code that is rasterized into output, comprising:

an output device;

means for receiving the source document including source content in a presentation language;

means for receiving a layout data structure separate from the source document, providing formatting properties specifying a layout and format of the content output, wherein the layout data structure does not include source content;

means for processing the source document and the layout data structure to determine formatting properties, including page divisions, for the content in the source document;

means for generating a first page object including the source content in the presentation language used in the source document and formatting properties for only a first page;

means for generating a second page object including the source content in the presentation language used in the source document and formatting properties for only a second page, wherein the first page object includes a first set of content elements to place on the first page and the second page object includes a second set of content elements to place on the second page; and

means for transmitting the first page object and second page object to a rasterizer to transform into renderable information capable of being generated by the output device.

63. The system of claim 62, wherein the page objects include content and formatting properties in a device independent presentation language.

64. The system of claim 62, wherein the presentation language comprises a page description language.

65. The system of claim 62, wherein the source document does not indicate page divisions for the content.

66. The system of claim 62, wherein generating page objects comprises:

adding at least one content element to one page object until the page object does not have available space for an additional content element; and

adding at least one additional content element to at least one additional page object until all content elements are included in page objects.

67. The system of claim 66, wherein page sequence elements include content elements, further comprising:

accessing page sequence elements according to an ordering of the page sequence elements, wherein the content elements within the accessed page sequence elements are added to page objects.

68. The system of claim 62, wherein the presentation language comprises a first presentation language, further comprising:

means for transforming the source document and source content therein into a result document in a second presentation language, wherein the result document includes the source content and the formatting properties provided by the layout data structure, wherein the formatting properties indicate page divisions of the content, and wherein the multiple page objects are generated from the result document.

69. The system of claim 62, wherein the first presentation language comprises the Extensible Markup Language (XML), wherein the second presentation language comprises Extensible Stylesheet Language Formatting Objects (XSL-FO), and wherein the page layout data structure comprises an XSL stylesheet.

70. The system of claim 68, wherein the page objects include formatting properties in a third presentation language.

71. The system of claim 70, wherein the first presentation language comprises the Extensible Markup Language (XML), wherein the second presentation language comprises Extensible Stylesheet Language Formatting Objects (XSL-FO), wherein the third presentation language comprises the Mixed Object Document Content Architecture (MO:DCA), and wherein the layout data structure comprises an XSL stylesheet.

72. The system of claim 70, wherein the third presentation language comprises a page description language.

73. The system of claim 68, wherein the page objects include content and formatting properties in the second presentation language.

74. The system of claim 68, wherein the second presentation language comprises Extensible Stylesheet Language Formatting Objects (XSL-FO).

75. An article of manufacture, in communication with an output device, comprising a computer-readable non-volatile storage unit for processing a source document in a structured document format including elements providing source content to render, wherein the source content comprises code that is rasterized into output, and wherein the article of manufacture comprises code capable of causing a processor to perform:

receiving the source document including source content in a presentation language;

receiving a layout data structure separate from the source document, providing formatting properties specifying a layout and format of the content output, wherein the layout data structure does not include source content;

processing the source document and the layout data structure to determine formatting properties, including page divisions, for the content in the source document;

generating a first page object including the source content in the presentation language used in the source document and formatting properties for only a first page;

generating a second page object including the source content in the presentation language used in the source document and formatting properties for only a second page, wherein the first page object includes a first set of content elements to place on the first page and the second page object includes a second set of content elements to place on the second page; and

transmitting the first page object and second page object to a rasterizer to transform into renderable information capable of being generated by the output device.

76. The article of manufacture of claim 75, wherein the presentation language comprises a page description language.

77. The article of manufacture of claim 75, wherein the source document does not indicate page divisions for the content.

78. The article of manufacture of claim 75, wherein generating page objects comprises:

adding at least one content element to one page object until the page object does not have available space for an additional content element; and

adding at least one additional content element to at least one additional page object until all content elements are included in page objects.

79. The article of manufacture of claim 78, wherein page sequence elements include content elements, wherein the code is further capable of causing the processor to perform:

accessing page sequence elements according to an ordering of the page sequence elements, wherein the content elements within the accessed page sequence elements are added to page objects.

80. The article of manufacture of claim 75, wherein the presentation language comprises a first presentation language, and wherein the code is further capable of causing the processor to perform:

transforming the source document and source content therein into a result document in a second presentation language, wherein the result document includes the source content and the formatting properties provided by the layout data structure, wherein the formatting properties indicate page divisions of the content, and wherein the multiple page objects are generated from the result document.

81. The article of manufacture of claim 80, wherein the first presentation language comprises the Extensible Markup Language (XML), wherein the second presentation language comprises Extensible Stylesheet Language Formatting Objects (XSL-FO), and wherein the page layout data structure comprises an XSL stylesheet.

82. The article of manufacture of claim 80, wherein the page objects include formatting properties in a third presentation language.

83. The article of manufacture of claim 82, wherein the first presentation language comprises the Extensible Markup Language (XML), wherein the second presentation language comprises

Extensible Stylesheet Language Formatting Objects (XSL-FO), wherein the third presentation language comprises the Mixed Object Document Content Architecture (MO:DCA), and wherein the layout data structure comprises an XSL stylesheet.

84. The article of manufacture of claim 82, wherein the third presentation language comprises a page description language.

85. The article of manufacture of claim 80, wherein the page objects include content and formatting properties in the second presentation language.

86. The article of manufacture of claim 80, wherein the second presentation language comprises Extensible Stylesheet Language Formatting Objects (XSL-FO).

87. The article of manufacture of claim 80, wherein the page objects include content and formatting properties in a device independent presentation language.

X. EVIDENCE APPENDIX

None

XI. RELATED PROCEEDINGS APPENDIX

- The subsequent pages include a copy of a related prior Board decision, made on 01/23/2008, regarding present application (App. No. 09/782,850).